

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CURTIS LEE WALKER,

No. C 08-05381 JF (PR)

Plaintiff,

ORDER OF DISMISSAL

v.

EFREN GOMEZ, et al.,

Defendants.

Plaintiff, a California inmate, filed a civil rights complaint under 42 U.S.C. § 1983. Plaintiff has also filed an application to proceed in forma pauperis. (Docket Nos. 2 & 5.) Plaintiff's complaint is identical to a complaint filed prior to this action which is currently pending before this Court: Case No. C 08-05305 JF (PR).

A complaint that merely repeats pending or previously litigated claims may be dismissed under the authority of 28 U.S.C. § 1915. Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988). This action is duplicative of an earlier complaint filed in this Court that is currently pending. As such, Plaintiff's complaint is DISMISSED as duplicative and for failure to state a claim for relief.

For the foregoing reasons, Plaintiff's action is DISMISSED for failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915A. The Clerk of Court shall terminate all pending motions, enter judgment and close the file.

IT IS SO ORDERED.

Dated: 1/14/09



JEREMY FOGEL
United States District Judge

United States District Court
For the Northern District of California